

**WILLIAMSBURG CITY COUNCIL
JUNE 8, 2006
MINUTES**

The Williamsburg City Council held its regular monthly meeting on Thursday, June 8, 2006, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Haulman, Scruggs, Chohany and Freiling. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Assistant City Manager Miller, Economic Development Director DeWitt, and Department Heads Hudson, Nester, Serra, Yost, Weiler, and Hudson.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Scruggs Moved That City Council Approve of the Minutes of May 8 and May 11, 2006. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

MATTERS OF SPECIAL PRIVILEGE

Recognition of Billy S. Scruggs, Council Member

Mayor Zeidler announced that this was Mr. Scruggs' last Council meeting. He has served for three and one-half years and has been a terrific colleague. Council held a luncheon in at Noon in his honor and reminisced about his term on Council. A public reception was held in his honor just before the Council meeting. Mayor Zeidler read the Resolution of Commendation and Appreciation and presented it to Mr. Scruggs.

Mr. Chohany Moved That City Council Adopt Resolution #06-18, Resolution of Commendation and Appreciation for The Honorable Billy S. Scruggs, Member of City Council. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED RESOLUTION #06-18)

Mayor Zeidler recognized Mr. Scruggs' family members that were present: his wife Sharon, son Sam, and mother-in-law Ms. Yvette Anthony. (applause and standing ovation)

Mr. Scruggs thanked City Council for the recognition and said it was a tremendous pleasure to have served with two Councils, and he was humbled and honored to serve the city; he loved it. He especially thanked his wife Sharon.

Excellence in Service to Williamsburg Award presented to Sergeant Tim Davis, Williamsburg Police Department

Mayor Zeidler said it was a pleasure to present Sergeant Davis with this award, especially since the recipient is nominated by his fellow employees. She asked him to join her at the podium where the Mayor read the recognition of his work (attached) and the Excellence in Service plaque and presented them to Sgt. Davis.

Sgt. Davis thanked City Council and everyone present.

Presentation of Proclamation “Year of Regional Citizenship”—E. Dana Dickens, III, President, Hampton Roads Partnership

Mr. Dickens appreciated the opportunity to be at the meeting and said it was an honor to present this proclamation to Council. He thanked the Mayor for her outstanding leadership on a regional level and complimented Mr. Tuttle for his involvement and leadership in regional issues.

Mr. Dickens provided Council with background information about the Partnership and its board. The partnership’s mission is to make Hampton Roads more competitive and to raise the awareness of the people of Hampton Roads about how interdependent our region has become. Mr. Dickens read the resolution honoring the “Year of Regional Citizenship” which was kicked off in a ceremony on April 26, 2006. Mayor Zeidler was presented with a framed copy of the proclamation and photographs of her signing the proclamation. Mayor Zeidler accepted the proclamation and thanked Mr. Dickens for the great job he was doing as President of the Partnership.

Economic Development Authority Business Appreciation Awards presented to the Jefferson Restaurant and Williamsburg Farmers’ Market

Mayor Zeidler invited Mr. Chohany, Council’s liaison to the EDA, to join her in presenting the awards to recognize outstanding businesses in Williamsburg. The criteria for being selected for the award include: length of time in the city, products and services offered, service innovativeness, increase sales, contribution to the community, excellent customer service, and environmental sensitivity.

Jefferson Restaurant

Mayor Zeidler asked Mark Wright of the Jefferson to join her at the podium. Mayor Zeidler gave a brief history of the restaurant. The Jefferson Restaurant, 1453 Richmond Road, was opened in 1956 and is celebrating its 50th anniversary. It is owned and operated by four generations of the family, from Harriet Petrell to her two great grandchildren, EJ and Marissa Wright. Mrs. Petrell’s grandson Mark Wright heads the operation. Mayor Zeidler presented the award to Mark Wright, who accepted with appreciation.

The Williamsburg Farmers’ Market

Mayor Zeidler asked Libby Oliver, Market Manager, to join her at the podium and noted that Jodi Miller chairs the Farmers’ Market Board. The award was presented to the Farmers’ Market. The Williamsburg Farmers’ Market started in 2002 providing a venue for locally grown produce, seafood, cut flowers, baked goods, meat, and eggs in downtown Merchants Square on Saturday mornings. The Merchants Square Association, the City of Williamsburg, and Colonial Williamsburg formed the Williamsburg Farmers’ Market as a nonprofit organization to provide a market for Williamsburg. Starting July 11, 2006, the

market will expand to include a second day of the week market on Tuesday evenings from 3 pm to 7 pm.

The Mayor presented the award plaque to Ms. Oliver, who was delighted to accept the award on behalf of all the partners that have made the market a success.

PUBLIC HEARINGS

Announcement Regarding ARB Appeal Cases: Mr. Tuttle announced that he was informed by Mr. Ed Robbins that the appeals of Peppertree Condominiums and Jamestown Commons (Public Hearings C and D) have been withdrawn. Mayor Zeidler noted that the withdrawal of the appeal was previously announced at the June work session and that the issue had been resolved.

PCR #06-010: Request of Bina Thakkar to amend the B-2 District to allow an employer to lease rooms for employees from an existing hotel or motel with a special use permit, *Proposed Ordinance #06-15; and*

PCR #06-011: Request of Busch Entertainment Corp. for a special use permit to lease 20 rooms in the Econo-Lodge Motel at 442 Parkway Drive to house 80 Russian students to work at Water Country, U.S.A.

Reference for these items was Mr. Nester's report dated June 1, 2006. Mr. Nester said that these two public hearings would be addressed together. Mr. Nester presented a Powerpoint presentation of an area map and photographs. He reviewed the information provided in his report.

These two inter-related requests are for the purpose of allowing 20 rooms in the Econo-Lodge Motel at 442 Parkway Drive to be leased to Busch Entertainment Corporation to house 80 Russian students (four per room) to work at Water Country, U.S.A., from May 15, 2006 through September 30, 2006. The applicant has agreed to use 20 rooms at the "front side" of the motel closest to Capitol Landing Road, which is the portion of the motel that is furthest away from the single family neighborhood on the other side of Parkway Drive (Haynes Drive and Forest Hills Drive area). The Zoning Ordinance allows this as a transient occupancy for 30 days.

The Zoning Ordinance only allows rooming facilities for employees when the facility is owned and operated by the employer, as is the case with the International Housing Village across the street from the Econo-Lodge, which is owned and operated by Busch Entertainment Corporation and houses 360 students (90 rooms with four students per room). The Zoning Ordinance was amended to allow owner owned and operated rooming facilities in April 1998 (PCR #98-13).

The Zoning Ordinance text is proposed to be amended to allow housing employees in a leased facility, rather than an employer owned and operated facility. The proposed change requires that employees using the leased facility must work at least 20 hours per week for the employer, that a minimum of 10 rooms must be leased. If adopted, this change, which requires a special use permit, would apply in all B-2 Districts (Capitol Landing Road, York Street, Richmond Road west of Ironbound Road, and the Jamestown Road/Route 199 intersection). Mr. Nester noted that the affect on residential neighborhoods should be taken into consideration.

The Planning Commission recommended that City Council approve the proposed text amendment to Sec. 21-324(4.1), Rooming facilities for employees only, as detailed in Proposed Ordinance #06-15.; and approve the special use permit to allow Busch Entertainment Corporation to lease 20 rooms in the Econo-Lodge at 442 Parkway Drive to house 80 Russian students (four per room) to work at Water Country, U.S.A., from May 15, 2006 through September 30, 2006, contingent upon the following:

1. The special use permit is valid only until September 30, 2006.
2. All students shall be housed in the front portion of the motel closest to Capitol Landing Road.
3. Payment of the transient lodging tax as noted in the agreement contained in the letter from David W. Otey of May 12, 2006, and countersigned by Bina Thakker, owner of the property.

Mr. Nester said that he has provided Council with an alternate ordinance proposal (attached) to allow a motel to pre-apply for permission to lease rooms to an employer or to an employee brokerage firm that provides employees for local business. This would address the concerns raised by Mr. David Bryhn of the Rochambeau Motel on Capitol Landing Road and his leasing issue. Planning Commission has not seen the alternate ordinance. Council could adopt the alternate ordinance or decide to send it back to the Planning Commission for review. Regardless of that decision, Mr. Nester recommended that City Council act on the present request.

Mr. Nester addressed Council's questions regarding areas in the city zoned B2, code requirements, and the Planning Commission's deliberation about the removal of the section from the ordinance about 50% limitation on rentals to students.

Mayor Zeidler opened the public hearing.

David Otey, Attorney, representing the Econo Lodge and Busch Entertainment, addressed Council about the requests. The International Village is an asset to the community and this proposal will be the same. Students will follow the same rules as imposed at the International Village and will be supervised. The international students provide a part time work force for the tourist industry in this community, and many work more than one job. The owner of the hotel has agreed to pay the Transient Occupancy tax. Mr. Otey asked Council for favorable consideration of this request. He noted that representatives from Busch Entertainment were present.

David Bryhn, Owner of the Rochambeau Motel, stated that he had met with Mr. Nester and Ms. Murphy to discuss the rental of his motel to students. He did not realize that he needed a permit before he could rent to the students for more than 30 days. Mr. Bryhn appreciated Mr. Nester's assistance to help him to understand the laws. He believed the alternate ordinance needs more work. His experience with the students was very pleasant and he hoped that he could continue to sell rooms to these students in the future, with the appropriate city approval.

No one else wished to speak. The public hearing was closed.

Mr. Haulman favored the alternative proposal and will vote to support it. He appreciated the work that has gone into this matter. The International Village has been an asset to the community and a good experience. This ordinance applies to the B2 District and serves as the labor force for the tourist economy. It takes the pressure off of the housing market in the downtown area. Mr. Chohany supported the alternate proposal and whatever Council can do to support the international housing market and enhance this program, and supported the Special Use Permit process and the development of stronger guidelines (cooking, security, nuisances, use of property). Mr. Scruggs suggested Internet access be a condition of the SUP and supported Mr. Chohany's suggestion for guidelines.

Mr. Scruggs was concerned about the lack of workers for jobs, and the lack of housing for these workers, but the up-side to this is the low percentage of hotel/motel occupancy.

Mr. Nester noted that the special use permit is limited to a maximum of two years depending on the request. Mr. Phillips said that the non-compliance of any conditions in the SUP would be dealt with by civil penalty or injunction. Mr. Freiling said he was inclined to grant approval for just one year, in order to limit the burden on staff if there were problems with compliance. This program helps hoteliers and businesses, and provides housing for this work force. It helps to insure the safety and welfare of these visiting workers and we should help them. He agreed with Mr. Haulman about alleviating pressure on the housing market, and favored the alternate proposal because it helps to plan in advance and he could see no downside.

Mr. Haulman said this is an opportunity to think about extending WiFi service to commercial areas. Mr. Chohany suggested that the city take a leadership role in workforce development to assist these workforce visitors and look at other hotel/motels that might not be in compliance with the current ordinance.

Mr. Chohany Moved That City Council Approve the Alternate Proposed Ordinance #06-15.

Mayor Zeidler stated that she was concerned that the Planning Commission has not seen the alternate proposal, and would prefer that it be referred back to the commission.

Council members and Mr. Nester discussed the impact of sending the alternate proposal back to Planning Commission. Mr. Nester suggested that the original ordinance be approved and the alternate be referred to the Planning Commission.

Mr. Bryhn responded that he thinks the proposal needs more work. He did not agree with the section of the ordinance that limits rental of rooms to students if you have additional vacant rooms that could be rented to tourists. He was concerned about the time limit for rentals to students. Mr. Nester said the Planning Commission focused on leasing of rooms by employers, but did not discuss preapproval of renting rooms. The ordinance intent was not to provide family housing—just student housing with the involvement of an employer or brokerage firm. If the alternate ordinance was adopted, the SUP would still need action.

Mr. Freiling noted that the Planning Commission has endorsed the concept of allowing non-employer owned hotels to be used for housing international students. We are discussing the timing of the process. Mr. Nester said with the preapproval process, the city would not know who the employer/broker would be.

Mr. Phillips said that if the alternative ordinance is adopted, and someone wanted to apply under it for an SUP, both the Planning Commission and Council would hold public hearings and consider the SUP. The process would take three months. He suggested that Council may want the Planning Commission to review the alternate and develop consistent standards. He did not see how anybody would be prejudiced by referring this alternate back to the Planning Commission. The alternate ordinance and any new SUP applications could run concurrent through the review process.

Mr. Scruggs seconded Mr. Chohany's motion.

Mr. Phillips advised Council about *Roberts Rules* regarding motions.

Mr. Chohany withdrew his motion.

Mr. Haulman Moved That City Council Adopt Proposed Ordinance #06-15, An Ordinance Amending the Code of the City of Williamsburg, Chapter 21, Zoning, B-2 District, Section 21-324 (4.1), Rooming Facilities for Employees, and Recommend that the Planning Commission Consider the Language of the Proposed Alternate Ordinance (#06-15), and that City Council Approve the Request of Busch Entertainment Corporation for a Special Use Permit to Lease 20 Rooms in the Econo-Lodge Motel at 442 Parkway Drive to House 80 Russian Students. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED ORDINANCE #06-15 AND PROPOSED ALTERNATE ORDINANCE #06-15)

ARB #05-006: Appeal by Peppertree Condominium Owners Association of the decision of the Architectural Review Board to deny the request to replace wood siding with vinyl siding for the complex at 1203 Jamestown Road.

This appeal was withdrawn by the Applicant

ARB #05-007: Appeal by Jamestown Commons Owners Association of the decision of the Architectural Review Board to deny the request to replace wood siding with vinyl siding for the complex at 101 and 105 Lake Powell Road.

This appeal was withdrawn by the Applicant

ARB #05-008: Appeal by Sterling Nichols and Larry McCardle of the decision of the Architectural Review Board to deny the request for retroactive approval for installation of vinyl siding over the existing siding for the office building at 1201 Jamestown Road.

Previously Withdrawn by the Applicant

REPORTS

Financial Statement

The Monthly Financial Report was Received and Ordered Filed.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were Received and Ordered Filed.

Update--High Street Project: Mr. Tuttle reported that the site work would begin soon and continue through the summer. A cornerstone event will be held after Labor Day, tentatively set for Friday, September 15, to open the welcome center.

City Manager Reports

Revenue Bond Issue for the Colonial Williamsburg Foundation, *Proposed Resolution #06-14*

Reference for this item was Mr. Tuttle's report dated June 1, 2006, which included the proposed resolution and attachments.

Ms. Dewitt, Economic Development Manager, reported that the Williamsburg Economic Development Authority approved the issuance of up to \$10,000,000 in revenue bonds for the Colonial Williamsburg Foundation at its May 10 meeting. The Foundation will use the bonds for the renovation of the DeWitt Wallace Decorative Arts Museum. The city knows of no other need for this bank qualified financing for this calendar year. If the bond is approved, Colonial Williamsburg will be entirely responsible for repayment of the bonds, not the city or EDA. State Code requires that Council authorize the EDA to issue the bonds, as stipulated in the proposed resolution. If approved by Council, the EDA will move forward to approve this request at their June 14 meeting.

Mr. Chohany, Council's liaison to the EDA, spoke in support of this bond issue.

Mr. Chohany Moved That City Council Approve Resolution #06-14 for the Issuance of Up to \$10,000,000 in Economic Development Authority Revenue Bonds to Construct the New Folk Art Museum and Replace the Fire Sprinkler System at the DeWitt Wallace Decorative Arts Museum and Public Hospital. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Scruggs, Zeidler, Haulman, Chohany

No: None

Abstain: Freiling

(SEE ADOPTED RESOLUTION #06-14)

Signalized Crosswalk—Route 199 and Brookwood Drive, *Proposed Resolution #06-15*

Reference for this item was Mr. Tuttle's report dated June 1, 2006, and the proposed Resolution. Mr. Tuttle reported that Council indicated that it would like to go on record as endorsing a signalized crosswalk at Route 199 and Brookwood Drive, primarily for the benefit of Holly Hills Carriage Homes residents. The resolution would be addressed to VDOT and James City County, which would have to give permission for the city to do this.

Mayor Zeidler noted that the city does not have the authority to install the crosswalk, but the resolution expresses the city's interest and desire for this needed crosswalk.

Mr. Tuttle said it would be helpful for the residents of Holly Hills Carriage Homes to petition VDOT and James City County for the crosswalk.

Mr. Freiling Moved That City Council Adopt Proposed Resolution #06-15 Endorsing a Signalized Crosswalk Across Route 199 at Brookwood Drive. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED RESOLUTION #06-15)

Signalized Crosswalk—Monticello Avenue and Ironbound Road, *Proposed Resolution #06-16*

Reference for this item was Mr. Tuttle's report dated June 1, 2006, and the proposed Resolution. Mr. Tuttle reported that Council indicated that it would like to go on record once again as endorsing a signalized crosswalk at the intersection of Monticello Avenue and Ironbound Road. Mr. Tuttle noted that the College of William and Mary and James City County have been advised. While the VDOT project is designed to provide for handicapped access, it does not include crosswalks.

Council members were very concerned that a crosswalk was not planned. Mr. Tuttle said that this is a difficult intersection because it has a wide median which means that it will take pedestrians longer to cross, which will affect movement of traffic. That is why VDOT is reluctant to install the crosswalks on busy roadways. Mr. Haulman was concerned that this sends the message that cars are more important than walkers and bikers. Mr. Freiling was concerned about safety.

Mr. Freiling Moved That City Council Adopt Proposed Resolution #06-16 Endorsing Signalized Crosswalks at the Monticello Avenue and Ironbound Road intersection. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED RESOLUTION #06-16)

Budget Amendment for Public Safety Grants, *Proposed Resolution #06-17*

Reference for this item was Mr. Tuttle's report dated June 1, 2006, and the proposed Resolution. Mr. Tuttle reported that this was primarily a housekeeping item that provides an accounting mechanism for public safety grant expenditure and revenue line items. The proposed resolution increases the General Fund budget line items for grants approved prior to April 2006 in the amount of \$115,000.

Mr. Freiling Moved That City Council Adopt Proposed Resolution #06-17 to Increase the FY General Fund Budget by \$115,000. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED RESOLUTION #06-17)

NEW BUSINESS

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Haulman Moved that City Council Reappoint Mr. Joe McCartney, Mr. Fred R. Howard, and Mr. Frank Ferrante to the Citizens Telecommunications Advisory Committee for a Two-Year Term to Expire June 30, 2008. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

OPEN FORUM

Charles C. Eggleston, 113 Richneck Road/Jamestown Commons, was not aware that the appeal for Jamestown Commons (ARB 05-07) had been withdrawn. He addressed the design the building, and the improved appearance and cost of today's vinyl siding product. Why cut down trees for wood siding, when vinyl will do? There are other metal buildings in the area of Jamestown Road, as well as the gray sound wall on Route 199. This area is not part of the historic corridor, but a thoroughfare. He asked Council to revisit this matter and approve the request for vinyl siding on the condominiums.

CLOSED SESSION

Mr. Haulman Moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one personnel matter per subparagraph 1, concerning annual personnel evaluation of the City Manager. The motion was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 3:54 p.m. The Mayor called a five-minute recess.

At 5:22 p.m. Council met in Open Session.

Mr. Haulman Moved the Certification of Closed Meeting. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

CERTIFICATION OF CLOSED MEETING

Date: June 8, 2006

Motion: Mr. Haulman; Second: Mr. Freiling

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Absent During Vote: None

Absent During Meeting: None

The meeting adjourned at 5:23 p.m.

ATTACHMENT: CERTIFICATION OF GENERAL ELECTIONS

Attached is the Abstract of Votes cast in the City of Williamsburg, Virginia, at the May 2, 2006 General Election for Member of City Council At Large, certified by members of the Electoral Board.

Approved: July 13, 2006

Clyde A. Haulman, Vice-Mayor

Shelia Y. Crist
Clerk of Council